

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WOLFIRE GAMES, LLC, SEAN COLVIN,
SUSANN DAVIS, DANIEL ESCOBAR,
WILLIAM HERBERT, RYAN LALLY, HOPE
MARCHIONDA, EVERETT STEPHENS,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

VALVE CORPORATION,

Defendant.

CASE NO.: 2:21-cv-00563-JCC

DARK CATT STUDIOS HOLDINGS, INC., and
DARK CATT STUDIOS INTERACTIVE LLC,
on behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

VALVE CORPORATION,

Defendant.

CASE NO.: 2:21-cv-00872-JCC

**DECLARATION OF KENNETH R.
O'ROURKE IN SUPPORT OF DARK
CATT PLAINTIFFS' MOTION FOR
APPOINTMENT OF CO-LEAD
INTERIM COUNSEL FOR PROPOSED
DEVELOPER CLASS**

1 I, Kenneth R. O'Rourke, submit this declaration in support of the motion to appoint Dark
2 Catt's counsel to co-lead the proposed Developer class on an interim basis, and declare under
3 penalty of perjury as follows:

4 1. I am a partner with Wilson Sonsini Goodrich & Rosati P.C. ("WSGR") and serve
5 as co-lead counsel, along with W. Joseph Bruckner of Lockridge Grindal Nauen P.L.L.P. ("LGN"),
6 for Plaintiffs Dark Catt Studios Holdings, Inc. and Dark Catt Studios Interactive LLC (collectively,
7 "Dark Catt") in the above-captioned litigation. I have personal knowledge of the facts set forth in
8 this declaration except where noted and could and would competently testify to them if called as
9 a witness.

10 2. I am an attorney licensed to practice law in the District of Columbia and the State
11 of California. I am admitted to practice before the United States Supreme Court, United States
12 Courts of Appeal for the Ninth and Federal Circuits, and the United States District Courts in
13 California (all Districts) and the District of Columbia.¹ Over the years I have been admitted to
14 practice *pro hac vice* in several courts across the country.

15 3. I am committed to prosecuting this case. If the Court appoints my firm as co-lead
16 counsel in this litigation, I will devote myself personally to its leadership and would be honored to
17 do so. I am a litigator with 35-years of experience. My principal area of practice is antitrust
18 litigation.

19 **I. WSGR Performed a Comprehensive Investigation**

20 4. WSGR was asked by Dark Catt in the fall of 2020 to investigate Valve
21 Corporation's conduct against Dark Catt related to Valve's Steam gaming store. That investigation
22 broadened into looking into the scope and impact of Valve's conduct on other similarly situated
23 personal computer ("PC") game developers that sold their games on the Steam store.

24
25
26 ¹ I am also qualified as a Solicitor of the Senior Courts of England and Wales and formerly
27 was qualified as a Solicitor of the Republic of Ireland (until a recent Law Society rule change
regarding geographic presence in Ireland).

1 5. I personally led the investigation for our firm. WSGR expended significant
2 resources to identify and investigate Dark Catt's and other similarly situated Developers' potential
3 claims in this case, including devoting hundreds of attorney hours. I personally devoted over 100
4 hours to this effort. We also worked closely with lawyers outside of our firm.

5 6. Our extensive factual investigation of Valve's practices included interviews with
6 industry participants (e.g., developers and distributors), review and analysis of public statements
7 by developers, Valve's public statements, the Steam store website, press articles, social media
8 postings, industry research reports, and more. WSGR also consulted with lawyers steeped in the
9 e-gaming industry as well as with economic experts who provided analyses of the PC game
10 distribution market and industry economics.

11 7. Seeing the potential scope of Valve's misconduct and the type of litigation best able
12 to redress it, WSGR asked LGN to partner with us in further developing the case and ultimately
13 litigating it. The work of WSGR and LGN as well as other professionals consulted resulted in the
14 *Dark Catt* complaint LGN and WSGR jointly filed on June 28, 2021.

15 8. I have known Joseph (Joe) Bruckner of LGN for a decade and know him to be a
16 terrific antitrust class action lawyer and consummate professional who treats others with respect.
17 He is the type of lawyer who my firm and I want to collaborate with on this case. We too elevate
18 respect as an important ingredient for success when working with other lawyers in the best interests
19 of clients.

20 9. WSGR and LGN would have filed Dark Catt's complaint in this Court regardless
21 of the *Colvin* action and *Wolfire* action having been filed.² As is evident from a review of the
22 complaints themselves, the *Dark Catt* complaint does not stem from the original *Colvin* complaint,
23 original *Wolfire* complaint, or consolidated *Wolfire* complaint. The theories, approach,
24 allegations, and plaintiff groups in those complaints differ from the *Dark Catt* complaint despite
25 overlap as to certain of Valve's alleged monopolistic conduct.

26 ² *Colvin v. Valve Corp.*, No. 2:21-cv-00801 (C.D. Cal. Jan. 28, 2021) and *Wolfire Games, LLC v.*
27 *Valve Corp.*, No. 2:21-cv-00563-JCC.

II. WSGR Has Pursued Only Developers' Interests in this Litigation

10. The day after we filed the Dark Catt complaint on June 28, 2021, Joe Bruckner and I called counsel for Defendant Valve to introduce ourselves, discuss our entry into the litigation, and to open lines of communication for procedural matters and case coordination. I set a conference call for a short while later.

11. On the same day, we also reached out to counsel from the Wolfire/game buyer case. In ensuing discussions about a proposed leadership structure, we said we were open to a joint approach to the Court. We proposed that one of our firms and one of their firms seek the Court's approval to co-lead the representation of the Developer class on an interim basis, but that the firms could not simultaneously represent game buyers. We explained our belief that there is a conflict of interest for the same lawyers to represent Developers and game buyers. We have not wavered from that belief and accordingly declined Wolfire/game buyers counsel's proposal that we join their case on behalf of one class of Developers and consumers.

III. WSGR Has Deep Experience with Class Actions and Complex Antitrust Cases

12. WSGR is headquartered in Silicon Valley and has approximately 900 attorneys in 16 offices worldwide. Its annual revenues exceed \$1 billion. The firm holds itself out as the leading provider of legal services to technology and life sciences clients that has represented the disruptive, market-creating companies that influenced virtually every milestone marking an evolution in technology—from the semiconductor, computer, and software pioneers of the 1970s and 1980s to today's life sciences, internet, and social media innovators. Electronic gaming is one such area.

13. ***Electronic Gaming:*** WSGR is steeped in the e-gaming industry. The firm provides a full range of services to electronic gaming clients. The firm's multi-disciplinary electronic gaming group represent a range of participants in the industry, such as developers of video and mobile games; augmented reality and virtual reality designers and device manufacturers; creators of software development engines and other e-gaming middleware; online-streaming platforms,

1 content creators and streamers; e-sports entities; venture capital funds; other private funds, and
2 other investors in the industry.

3 14. The e-gaming group is a valuable resource to our antitrust litigation team on this
4 case given the group's deep industry knowledge, contacts, and other resources to call upon as this
5 case progresses. Indeed, we have already obtained valuable insights from lawyers within the
6 group.

7 15. **Antitrust:** WSGR's antitrust and competition practice is a leading practice group.
8 Our antitrust group represents clients in high-stakes antitrust litigation, mergers, and criminal and
9 civil investigations. The antitrust group litigates antitrust issues as trial and appellate counsel for
10 company plaintiffs and defendants, including a significant docket of federal class action and
11 "follow-on" cases after government enforcement. The firm's materials note that WSGR's antitrust
12 department has been described by *The American Lawyer* as the "Antitrust Litigation Department
13 of the Year." The team is consistently recognized among the leading antitrust practices worldwide
14 by such sources as *Global Competition Review* ("*GCR*"), *Chambers*, and *Law360*.

15 16. For example, *Chambers USA* characterized WSGR as "a dominant firm for matters
16 involving the hi-tech sphere, acting for many of the most prominent technology firms." In 2021,
17 *GCR* ranked WSGR No. 11 in the world on its "Global Elite" list of antitrust practices, a list of the
18 top 25 firms practicing competition law across national borders. *GCR* has previously hailed the
19 group as "perhaps the best antitrust and competition practice for high-tech matters in the world."

20 17. WSGR antitrust lawyers are experienced litigating on behalf of both plaintiffs and
21 defendants. For example, WSGR currently represents Seagate Technology and affiliates as
22 plaintiffs in antitrust litigation against various manufacturers accused of market allocation and
23 price-fixing a key component used in making computer hard disk drives. I am a lead litigator for
24 Seagate in this action pending in the Northern District of California. *Seagate Tech. LLC v.*
25 *Headway Techs., Inc.*, No. 3:20-cv-01217 (MDL No. 2918) (N.D. Cal.).

26 18. Our firm represents Mylan as plaintiff in a significant new monopolization and
27 attempted monopolization case against Teva in federal court in New Jersey. *Mylan Pharm. Inc. v.*

1 *Teva Pharm. Indus. Ltd.*, No. 2:21-cv-13087 (D.N.J.). I will serve as one of the lead litigators for
 2 Mylan. WSGR previously represented Mylan as a plaintiff in another monopolization case and
 3 obtained a \$62 million settlement in favor of our client. *Mylan Pharm. Inc. v. Celgene Corp.*, No.
 4 2:14-cv-02094 (D.N.J.). WSGR also represented Mylan in an antitrust case against Warner
 5 Chilcott.

6 19. In addition, WSGR represents Dr. Reddy's Laboratories in a monopolization case
 7 against Amarin Pharma, *Dr. Reddy's Labs. Inc. v. Amarin Pharma, Inc.*, No. 3:21-cv-10309
 8 (D.N.J.), and previously represented pharmaceutical company Amphastar in related antitrust and
 9 patent cases, obtaining a settlement in which Momenta and Sandoz agreed to pay our client \$59.9
 10 million. *Amphastar Pharm. Inc. v. Momenta Pharma. Inc.*, No. 1:16-cv-10112 (D. Mass.) and
 11 *Momenta Pharm. Inc. v. Amphastar Pharm. Inc.*, No. 1:11-cv-11681 (D. Mass.).

12 20. Besides plaintiff-side experience, the firm has extensive experience defending
 13 against antitrust cases. Just this week the Second Circuit granted the firm's clients a full dismissal
 14 of a price-fixing case involving a novel issue of the conflict between U.S. and China law. The
 15 firm represents two Chinese companies accused of conspiring to fix the price of vitamin C. *Animal*
 16 *Sci. Prods. Inc. v Hebei Welcome Pharm. Co.*, No. 13-4791 (2d Cir.).

17 21. Representative examples of WSGR's success on behalf of antitrust defendants
 18 include successfully defending Google in litigations filed by KinderStart, Person, TradeComent,
 19 and MyTriggers, each of which challenged Google's Search rankings and AdWords quality score
 20 adjustments as acts of monopolization. All cases were dismissed.

21 22. WSGR represents Mylan in defending multiple high-stakes antitrust civil
 22 litigations, including *In re Generic Pharmaceuticals Pricing Antitrust Litigation*, MDL No. 2724
 23 (E.D. Pa.), where WSGR serves as one of five liaison counsel for over 50 defendants in the matter.

24 23. WSGR represented Hitachi and two subsidiaries in follow-on litigation relating to
 25 a price-fixing investigation by DOJ, where WSGR successfully guided Hitachi through complex
 26 strategic decisions raised by the parallel nature of the ongoing criminal investigations and civil
 27 litigation and negotiated favorable settlements with the class plaintiffs and numerous opt-out
 28

1 plaintiffs. WSGR defended Walgreens by negotiating a favorable settlement in a consolidated
 2 class action litigation regarding 1-800-CONTACTS, Inc.'s allegedly unlawful search advertising
 3 bidding agreements. WSGR defended Live Nation in a case brought by classes of concertgoers
 4 alleging that the company had monopolized a market for live rock concerts.

5 24. Further, WSGR has extensive experience litigating class action cases, particularly
 6 those involving technology, many of which have involved multiple plaintiff groups and multiple
 7 proposed classes, multiple defendants, and/or multiple districts.

8 **a. My experience (Kenneth O'Rourke)**

9 25. My practice principally focuses on litigating complex cases. For more than three
 10 decades, I have represented established and emerging companies in multi-forum civil litigation,
 11 class actions, "bet-the-company" cases, and other complex litigation, including substantial
 12 experience litigating antitrust class actions, monopolization and attempted monopolization cases,
 13 and pending mergers contested by government enforcers and private litigants. Some highlights of
 14 my antitrust litigation experience are provided below.

15 26. As noted, I am a lead attorney for Seagate, a world-leading computer hard disk
 16 drive maker, in consolidated multi-district litigation involving an alleged price-fixing and market
 17 allocation conspiracy among manufacturers of high-tech components used in hard disk drives: *In*
 18 *re Hard Disk Drive Suspension Assemblies Antitrust Litig.*, MDL No. 2918 (N.D. Cal.) (Chesney,
 19 J.). We are litigating the case parallel to and in close coordination with the interim class counsel
 20 for two separate, putative classes of resellers and end-use consumers in the MDL:

21 27. In addition to the *Mylan v. Teva* monopolization case noted above, my colleagues
 22 at WSGR and I currently represent defendant Open to the Public Investing, Inc. in the antitrust
 23 cases consolidated in an MDL pending in the Southern District of Florida, *In re January 2021*
 24 *Short Squeeze Trading Litigation*, Case No. 21-02989 CMA (S.D. Fla.) (Altonaga, J.).

25 28. While working at my prior law firm, I tried a monopolization and attempted
 26 monopolization case on behalf of plaintiffs. *Bourns Inc. v. Raychem Corp. et al*, No. 98-cv-1765
 27 (C.D. Cal.).

29. For about a dozen years, I was lead counsel defending memory chip maker Hynix Semiconductor against class action antitrust cases and separate opt-out direct-action cases after Hynix (and other defendants) pled guilty to price fixing DRAM chips. We eventually settled all cases, after significantly trimming down the claims and prospective damages through successful motions and settlements. Over the years there were three separate MDLs in which multiple groups of class action plaintiffs sued for alleged price-fixing overcharges: *In re Dynamic Random Access Memory* (“DRAM”) *Antitrust Litig.*, No. 4:02-md-01486 PJH (N.D. Cal.) (Hamilton, J.); *In re Static Random Access Memory* (“SRAM”) *Antitrust Litig.*, No. C 07-1819 CW (N.D. Cal.) (Wilken, J.); *In re Flash Memory Antitrust Litig.*, No. 4:07-cv-00086 (N.D. Cal.) (Armstrong, J.).

30. A team from my prior firm and I also defended through trial a high-tech company’s antitrust claims (potentially totaling over \$10 billion in trebled damage) against our client Hynix Semiconductor. *Rambus, Inc. v. Micron Tech.*, No. CGC-04-431105 (S.F. Super. Ct.). The defense verdict was selected as a “Defense Verdict of the Year” by the *Daily Journal*.

31. Some of my other antitrust litigation experience includes:

- A senior member of the litigation team that defended AT&T and Time Warner through trial in a lawsuit brought by the U.S. Department of Justice seeking to block the companies’ merger. The press at the time referred to the litigation as the “antitrust trial of the century.” *United States v. AT&T Inc.*, No. 1:17-cv-02511 (D.D.C.) (Leon, J.). The District Court approved the merger and the Court of Appeals affirmed.
- A senior litigator for Alaska Airlines in defending its proposed acquisition of Virgin America against an antitrust challenge filed by travel agents and air passengers seeking to block the acquisition. *Grace v. Alaska Air Grp., Inc.*, No. 3:16-cv-05165 (N.D. Cal.) (Alsup, J.). The case settled as trial approached, and the merger was approved.
- A member of the litigation team that successfully defended US Airways in litigation filed by the U.S. Department of Justice seeking to block its merger with American

Airlines. *United States v. US Airways Group Inc.*, No. 1:13-cv-01236 (D.D.C.) (Kollar-Kotelly, J.). The case settled shortly before trial and the merger closed.

32. GCR's 2019 and 2020 editions of *Who's Who Legal - Competition* named me as among the world's "Competition Thought Leaders," and I have also been recognized by *Chambers USA*, *Chambers Global*, and *The Legal 500*.

33. My antitrust litigation leadership and experience extends outside of litigating cases:

- For ten years (chair 2010-18, co-chair 2019), I led The Antitrust Litigation Forum, an annual litigation discussion event with leading antitrust plaintiff-side and defense-side litigators and company in-house counsel who oversee their company's antitrust litigation.
- I chaired the California State Bar Antitrust & Unfair Competition Law Section (2013-14) and served as vice chair and in other leadership roles prior to becoming chair.
- Currently I serve as a vice chair of the ABA Antitrust Section's Global Private Litigation Committee. I previously served in a variety of leadership positions within the ABA Antitrust Section, including on the International Cartel Task Force.
- I am often asked to speak (and do speak) on antitrust litigation, class actions, and investigations at bar association conferences and similar professional gatherings. The locations span the continental United States (New York, Washington, D.C., South Carolina, Florida, Illinois, Ohio, Tennessee, Louisiana, Colorado, and California) as well as several venues in Asia (Singapore, South Korea, Japan, and China), and Europe (Ireland, Germany, Italy, France (declined due to schedule conflict), Portugal (forthcoming), and several times in the United Kingdom (England)).
- I have authored and co-authored dozens of articles, chapters, and other writings on antitrust, complex litigation, class actions and investigations over the years.

34. Besides representing clients as a litigator, I have had the opportunity to experience the legal profession—and major antitrust class action litigation—from the client’s perspective. For about a year and a half, I served as interim chief legal officer of Health Care Service Corp. (“HCSC”), operator of the BlueCross BlueShield health plans in Illinois, Montana, New Mexico, Oklahoma, and Texas. HCSC is the second-largest BlueCross insurer and, by some measures, the fourth-largest health insurance company in the country. HCSC was then a defendant along with the other BlueCross and BlueShield companies in substantial antitrust class action litigation pending in U.S. District Court in Alabama. *In re BlueCross BlueShield Antitrust Litigation*, MDL No. 2406 (N.D. Ala.) (Proctor, J.). Classes were litigated in a separate yet coordinated fashion against the BlueCross BlueShield companies on behalf of health care providers (*e.g.*, hospitals, clinics, doctor offices/practices) and health care insureds (patients/consumers). Part of my role as chief legal officer was to advise top management and the Board on these and other class action litigations as well as the company’s other legal affairs.

35. Other WSGR attorneys that will help to litigate this case are well-credentialed and experienced, including these team members:

b. Scott A. Sher

36. Scott Sher is a partner in WSGR’s Washington, DC office and the leader of the firm’s Antitrust and Competition practice group. Mr. Sher also serves on WSGR’s Board of Directors. Mr. Sher was closely involved from the outset of the investigation that led to us filing the *Dark Catt* complaint.

37. For more than 20 years, Mr. Sher has represented clients in major transactions, including some of the most high-profile consolidation deals in the life sciences, technology, and retail markets investigated by the Department of Justice, Federal Trade Commission, and foreign regulatory agencies. Mr. Sher has counseled clients in more than 1,000 transactions totaling more than \$1 trillion. Just a few of his notable representations include Google, in connection with its acquisitions of ITA, Waze, and DoubleClick; Trulia, in connection with its acquisition by Zillow; Careem, in connection with its acquisition by Uber; Sun Microsystems, in connection with its

1 acquisition by Oracle; HP, in connection with its acquisition of Compaq; Brocade, in connection
 2 with its acquisition of McDATA; Vivint Solar, in connection with its acquisition by Sunrun;
 3 Varian, in connection with its acquisition by Agilent; Marvell Technology in regard to its
 4 acquisition of chip company Inphi; WeddingWire in connection with its acquisition of XO Group;
 5 and Cvent in connection with its acquisition by Vista Partners.

6 38. Mr. Sher also has litigated a number of significant antitrust cases, including:

- 7 • Defending Twin America in connection with its successful dismissal of a
 8 monopolization claim brought by competitor Go New York Tours in the Southern
 9 District of New York
- 10 • Defending Hebei Welcome Pharmaceutical Co., the largest vitamin C manufacturer
 11 in China, in connection with its successful Second Circuit appeal of a jury verdict
 12 finding the company responsible for price fixing, the subsequent appeal to the
 13 United States Supreme Court, and on remand back to the Second Circuit, which
 14 ordered the district court to dismiss the case with prejudice.
- 15 • Defending private equity fund Vector Capital after the company was sued along
 16 with Francisco Partners by a class of WatchGuard Technologies investors who
 17 claimed that the two funds had colluded in their bidding to acquire WatchGuard
 18 voting securities. The firm secured the first-ever published opinion from the
 19 Western District of Washington concluding that such joint bidding does not
 20 implicate the antitrust laws.

21 39. Mr. Sher also regularly advises clients on managing antitrust risk related to a wide
 22 range of business strategies. His breadth of experience and deep understanding of the antitrust
 23 laws allow him to counsel on diverse pricing, distribution, and licensing practices to help clients
 24 efficiently achieve their objectives while avoiding potential liability. For example, he guides major
 25 retail and technology firms to implement pricing and distribution policies and guidelines to deal
 26 with complex channel conflict issues, resale price maintenance concerns, exclusivity provisions,
 27

1 and price bundling strategies. He also works with life science companies engaged in intricate
2 inbound and outbound licensing programs.

3 40. Mr. Sher is routinely recognized as a leading antitrust practitioner. *GCR*, in its
4 review of U.S. antitrust lawyers, called Mr. Sher “a true star of the antitrust bar.” He has been
5 recognized in the past six editions of *Chambers Global: The World’s Leading Lawyers* for
6 Business in the Competition/Antitrust category and also been recognized by *Chambers USA* for
7 over a decade as one of the nation’s top antitrust lawyers, with clients reporting that “he is
8 extremely quick on his feet and he knows antitrust inside and out” and “is practical in dealing with
9 complex issues and has deep knowledge.” He was recently named a “Thought Leader” by *Global*
10 *Competition Review/Who’s Who Legal – Competition*.

11 41. Mr. Sher’s leadership in the antitrust bar includes numerous leadership positions in
12 the ABA Antitrust Section, including as vice chair and chair of several committees; authoring and
13 co-authoring dozens of articles; and speaking at conferences hosted by the ABA Antitrust Section,
14 The Capitol Forum, and other professional associations.

15 42. Prior to joining WSGR, Mr. Sher clerked for the Honorable Joseph T. Sneed III of
16 the U.S. Court of Appeals for the Ninth Circuit in San Francisco and the Honorable Charles A.
17 Legge of the U.S. District Court for the North District of California.

18 **c. Stephanie L. Jensen**

19 43. Stephanie L. Jensen is Of Counsel in WSGR’s Seattle office. Ms. Jensen has also
20 contributed to our investigation for months. Ms. Jensen is admitted to practice in the State of
21 Washington and multiple courts, including this one. Ms. Jensen’s practice focuses on securities
22 and complex commercial litigation, defending companies in class actions and shareholder
23 derivative actions. Ms. Jensen also maintains an active pro bono practice. She serves on the Pro
24 Bono Panel for the U.S. District Court of the Western District of Washington, is a member of the
25 WSGR’s Pro Bono Committee, and serves as the pro bono coordinator for the firm’s Seattle office.
26 Ms. Jensen is a two-time recipient of the firm’s highest award for pro bono legal service, the John
27 Wilson Award.

44. In addition to handling her complex litigation cases, Ms. Jensen co-chairs the firm's Women of Wilson affinity group, co-leads the Seattle and Austin Women Attorneys group, chairs the Culture Subcommittee, is a member of both the Associates Committee and Juneteenth Planning Committee, and is active in the firm's Practice Technology Innovation efforts. In addition, Stephanie is an adjunct professor at Seattle University School of Law, from which she graduated *magna cum laude*. She co-teaches a "Transitioning to Practice" course with Washington Supreme Court Justice Mary I. Yu.

d. Allison B. Smith

45. Allison B. Smith is an associate in WSGR's Washington, D.C. office. Ms. Smith was actively involved in all stages of our investigation of Valve's conduct. Ms. Smith's practice focuses on antitrust litigation, government conduct investigations, and competition concerns in mergers and acquisitions.

46. Examples of Ms. Smith's involvement in antitrust class action cases include: *In re Optical Disk Drive Antitrust Litigation*, MDL No. 2143, *In re Dynamic Random Access Memory Indirect Purchaser Litigation*, MDL No. 2518, *In re Seroquel XR Antitrust Litigation*, No. 1:20-cv-1076 (D. Del.), *In re Rail Freight Fuel Surcharge Antitrust Litigation*, MDL No. 1869, and *In re Hard Disk Drive Suspension Assemblies Antitrust Litigation*, MDL No. 2918.

47. She was also a member of the trial team for AT&T and Time Warner's successful defense of the Department of Justice's challenge to their merger, and defended a medical device manufacturer and technology companies from monopolization and attempted monopolization claims. She serves as a Young Lawyer Representative in the ABA Antitrust Section for the 2021-2022 program year.

48. Prior to joining WSGR, Ms. Smith was a law clerk for the Honorable Rebecca Beach Smith of the U.S. District Court of the Eastern District of Virginia. Additionally, Ms. Smith's prior experience in economic consulting will be an asset to the complex economic issues involved in this case.

IV. WSGR Has the Resources Necessary to Successfully Prosecute this Action

49. As summarized above, WSGR has the necessary experience and resources to litigate a case of this magnitude.

V. Exhibits

50. Attached as Exhibit 1 is a true and correct copy of my biography and the biography for each of the aforementioned attorneys as they appear on the WSGR website.

51. Attached as Exhibit 2 is a true and correct copy of the *GCR 100 (2015)* describing WSGR as “perhaps the best antitrust and competition practice for high-tech matters in the world.”

52. Attached as Exhibit 3 is a true and correct copy of the *GCR 100 (2021)* ranking WSGR as 11th on its Global Elite list of the “world’s best antitrust practices.”

53. Attached as Exhibit 4 is a true and correct copy of the *AmLaw* article describing WSGR as “Antitrust Litigation Department of the Year.”

54. Attached as Exhibit 5 is a true and correct copy of *Chambers USA* describing WSGR as “a dominant firm for matters involving the hi-tech sphere, acting for many of the most prominent technology firms” and describing Scott Sher as “practical in dealing with complex issues and has deep knowledge” and that “he is extremely quick on his feet and he knows antitrust inside and out.”

55. Attached as Exhibit 6 is a true and correct copy of *Who’s Who Legal* recognizing Kenneth R. O’Rourke as a Global Leader in Competition for 2021.

56. Attached as Exhibit 7 is a true and correct copy of *GCR’s* review of U.S. antitrust lawyers calling Scott a “true star of the antitrust bar.”

1 I declare under penalty of perjury that the foregoing is true and correct.

2 Executed this 13th day of August, 2021 at Washington, DC.

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4 s/Kenneth R. O'Rourke
5 Kenneth R. O'Rourke
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